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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,932	08/28/2006	Thomas Arndt	294710US0PCT	3776
22850	7590	02/05/2010		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
NUTTER, NATHAN M				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
02/05/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

# Office Action Summary

## Application No.

10/590,932

## Applicant(s)

ARNDT ET AL.

## Examiner

Nathan M. Nutter

## Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-40 is/are pending in the application.
- 4a) Of the above claim(s) 30-34 and 36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-29, 35, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims 30-34 and 36-38 drawn to an invention nonelected with traverse in the reply filed on 4 June 2009. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Response to Amendment***

In response to the amendment filed 25 November 2009, the following is placed in effect.

The rejection of claims 24-29 under 35 USC 112, second paragraph, is hereby expressly withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-29, 35, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet et al (US 2004/0086721).

The reference to Bonnet et al teaches the manufacture of a molded article comprising a polymer blend of polyvinylidene fluoride (PVDF), a polymethyl methacrylate (PMMA) matrix having dispersed therein an acrylic elastomer. Note

paragraphs [0012]-[0017] for the constituents and their respective compositional limitations. The reference teaches at paragraph [0048] the PMMA to be of the "impact" grade which contains "acrylic impact modifiers, usually of the core-shell type." The references shows such core-shell materials at paragraphs [0032]-[0034], and include those recited herein. The size of the core-shell particle of the reference embraces that recited herein at 50 to 1000 nm. Further, note paragraphs [0049]-[0051] for the employment of the light stabilizer. The reference teaches the production of the article by extrusion. The articles may have a thickness of between 10 and 100  $\mu\text{m}$ . Note copending claim 9.

The reference to Bonnet et al does not teach the elongation at break range as recited in claims 25 and 26, but since the compositions may be identical, the characteristic of this modulus would be expected. The reference is not specific as to the end-use of the extruded product. However, a skilled artisan would be aware of such uses. The coating of a window or other light-transmissive structure with a product having a light stabilizer would surely be obvious to an artisan. The reference does not show the concept of placing such extruded article within a membrane structure. Applicants' own admission at paragraph [0060] as to the use of similar compositions to be well-known. Subsequent use of the material for its known use fails to rise to the level of patentability, absent any showing of unexpected results.

### ***Response to Arguments***

Applicant's arguments filed 25 November 2009 have been fully considered but they are not persuasive.

With regard to the rejection of claims 21-29, 35, 39 and 40 under 35 U.S.C. 103(a) as being unpatentable over Bonnet et al (US 2004/0086721), applicants argue the reference fails to disclose a thickness commensurate with that recited herein. The rejection was presented under 35 USC 103. The thickness of the end-product, such as a film would be deemed a design choice since it provides nothing as to the composition as to constituents. It would have been an obvious matter of design choice to provide a thicker film, since such a modification would have involved a mere change in the size of a component. A change in size is generally considered as being within the ordinary level of skill in the art. Note In re Rose, 105 USPQ 237 (CPA 1955) in this regard. Applicants then argue the elastomer particle content is not taught. The compositions taught in the reference at paragraphs [0050]-[0061] clearly provide percentages that overlap with those recited herein. As such, no unexpected or surprising results have been shown.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathan M. Nutter/  
Primary Examiner, Art Unit 1796

nmn

1/30/2010

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Art Unit: 1796

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